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reason(s) shall explain why the appellant believes the decision being appealed is in error, and shall include any argument(s) that the appellant wishes to make and any supporting document(s). The statement of reason(s) may be filed at the same time as the notice of appeal. If no statement of reason(s) is filed, the Area Director may summarily dismiss the appeal.

(c) Documents are properly filed with the Area Director when they are received in the facility officially designated for receipt of mail addressed to the Area Director, or in the immediate office of the Area Director.

(d) Within 30 days of filing of the statement of reason(s), the Area Director shall:

(1) Render a written decision on the appeal, or

(2) Refer the appeal to the Office of Hearings and Appeals Board of Indian Appeals for decision.

(e) Where the Area Director has not rendered a decision with 30 days of filing of the statement of reasons, the appellant may file an appeal with the Office of Hearings and Appeals Board of Indian Appeals pursuant to § 175.61.

§ 175.61 Appeals to the Interior Board of Indian Appeals.

(a) An Area Director's decision under this part, except a decision under § 175.11 or 175.13, may be appealed to the Office of Hearings and Appeals Board of Indian Appeals pursuant to the provisions of 43 CFR part 4, subpart D, except that a notice of appeal from a decision under § 175.12 shall be filed within 30 days of publication of the decision. The address for the Interior Board of Indian Appeals shall be included in the operations manual.

(b) Where the Area Director determines to refer an appeal to the Office of Hearings and Appeals Board of Indian Appeals, in lieu of deciding the appeal, he/she shall be responsible for making the referral.

(c) If no appeal is timely filed with the Office of Hearings and Appeals Board of Indian Appeals, the Area Director's decision shall be final for the Department of the Interior.

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§ 175.62 Utility actions pending the appeal process.

Pending an appeal, utility actions relating to the subject of the appeal shall be as follows:

(a) If the appeal involves discontinuance of service, the utility is not required to resume such service during the appeal process unless the customer meets the utility's requirements.

(b) If the appeal involves the amount of a bill and:

(1) The customer has paid the bill, the customer shall be deemed to have paid the bill under protest until the final decision has been rendered on the appeal; or

(2) The customer has not paid the bill and the final decision rendered in the appeal requires payment of the bill, the bill shall be handled as a delinquent account and the amount of the bill shall be subject to interest, penalties, and administrative costs pursuant to section 3 of the Federal Claims Collection Act of 1966, As amended, 31 U.S.C. 3717.

(c) If the appeal involves an electric power rate, the rate shall be implemented and remain in effect subject to the final decision on the appeal.

PART 179—LIFE ESTATES AND FUTURE INTERESTS

Subpart A—General

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AUTHORITY: 86 Stat. 530; 86 Stat. 744; 94 Stat. 537; 96 Stat. 2515; 25 U.S.C. 2, 9, 372, 373, 487, 607, and 2201 *et seq.*

SOURCE: 73 FR 67286, Nov. 13, 2008, unless otherwise noted.

Subpart A—General

§ 179.1 What is the purpose of this part?

This part contains the authorities, policies, and procedures governing the administration of life estates and future interests in trust and restricted property by the Secretary of Interior. This part does not apply to any use rights assigned to tribal members by tribes in the exercise of their jurisdiction over tribal lands.

(a) Subpart A contains general provisions.

(b) Subpart B describes life estates not created under the American Indian Probate Reform Act of 2004 (AIPRA), as described in § 179.3(b).

(c) Subpart C describes life estates created under AIPRA, as described in § 179.3(a).

§ 179.2 What definitions do I need to know?

Agency means the Bureau of Indian Affairs (BIA) agency office, or any other designated office in BIA, having jurisdiction over trust or restricted property. This term also means any office of a tribe that has entered into a contract or compact to fulfill applicable BIA functions.

AIPRA means the American Indian Probate Reform Act of 2004, Pub. L. 108-374, as codified at 25 U.S.C. 2201 *et seq.*

BIA means the Bureau of Indian Affairs within the Department of Interior.

Contract bonus means cash consideration paid or agreed to be paid as incentive for execution of a contract.

Income means the rents and profits of real property and the interest on invested principal.

Life estate means an interest in property held for only the duration of a designated person's life. A life estate may

be created by a conveyance document or by operation of law.

Life estate without regard to waste means that the holder of the life estate interest in land is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remaindermen.

Principal means the corpus and capital of an estate, including any payment received for the sale or diminishment of the corpus, as opposed to the income.

Rents and profits means the income or profit arising from the ownership or possession of property.

Restricted property means real property, the title to which is held by an Indian but which cannot be alienated or encumbered without the Secretary's consent. For the purpose of probate proceedings, restricted property is treated as if it were trust property.

Except as the law may provide otherwise, the term "restricted property" as used in this part does not include the restricted lands of the Five Civilized Tribes of Oklahoma or the Osage Nation.

Secretary means the Secretary of the Interior or authorized representative.

Trust property means real property, or an interest therein, the title to which is held in trust by the United States for the benefit of an individual Indian or tribe.

§ 179.3 What law applies to life estates?

(a) AIPRA applies to life estates created by operation of law under AIPRA for an individual who died on or after June 20, 2006, owning trust or restricted property.

(b) In the absence of Federal law or federally approved tribal law to the contrary, State law applies to all other life estates.

§ 179.4 When does a life estate terminate?

A life estate terminates upon relinquishment or upon the death of the measuring life.

§ 179.5 What documents will BIA use to record termination of a life estate?

The Agency will file a copy of the relinquishment of the interest or death

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certificate with the BIA Land Title and Records Office for recording upon receipt of one of the following:

(a) The life estate holder's relinquishment of an interest in trust or restricted property; or

(b) Notice of death of a person who is the measuring life for the life estate in trust or restricted property.

Subpart B—Life Estates Not Created Under AIPRA

§ 179.101 How does the Secretary distribute principal and income to the holder of a life estate?

(a) This section applies to the following cases:

(1) Where the document creating the life estate does not specify a distribution of proceeds;

(2) Where the vested holders of remainder interests and the life tenant have not entered into a written agreement approved by the Secretary providing for the distribution of proceeds; or

(3) Where, by the document or agreement or by the application of State law, the open mine doctrine does not apply.

(b) In all cases listed in paragraph (a) of this section, the Secretary must do the following:

(1) Distribute all rents and profits, as income, to the life tenant;

(2) Distribute any contract bonus one-half each to the life tenant and the remainderman;

(3) In the case of mineral contracts:

(i) Invest the principal, with interest income to be paid to the life tenant during the life estate, except in those instances where the administrative cost of investment is disproportionately high, in which case paragraph (b)(4) of this section applies; and

(ii) Distribute the principal to the remainderman upon termination of the life estate; and

(4) In all other instances:

(i) Distribute the principal immediately according to § 179.102; and

(ii) Invest all proceeds attributable to any contingent remainderman in an account, with disbursement to take place upon determination of the contingent remainderman.

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§ 179.102 How does the Secretary calculate the value of a remainder and a life estate?

(a) If income is subject to division, the Secretary will use Actuarial Table S, Valuation of Annuities, found at 26 CFR 20.2031, to determine the value of the interests of the holders of remainder interests and the life tenant.

(b) Actuarial Table S, Valuation of Annuities, specifies the share attributable to the life estate and remainder interests, given the age of the life tenant and an established rate of return published by the Secretary in the FEDERAL REGISTER. We may periodically review and revise the percent rate of return to be used to determine the share attributable to the interests of the life tenant and the holders of remainder interests. The life tenant will receive the balance of the distribution after the shares of the holders of remainder interests have been calculated.

Subpart C—Life Estates Created Under AIPRA

§ 179.201 How does the Secretary distribute principal and income to the holder of a life estate without regard to waste?

The Secretary must distribute all income, including bonuses and royalties, to the life estate holder to the exclusion of any holders of remainder interests.

§ 179.202 May the holder of a life estate without regard to waste deplete the resources?

Yes. The holder of a life estate without regard to waste may cause lawful depletion or benefit from the lawful depletion of the resources. However, a holder of a life estate without regard to waste may not cause or allow damage to the trust property through culpable negligence or an affirmative act of malicious destruction that causes damage to the prejudice of the holders of remainder interests.

PART 181—INDIAN HIGHWAY SAFETY PROGRAM

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181.1 Purpose.